

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

Filed: November 19, 2019

\* \* \* \* \*

RAFAEL D. LEAL,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

\* \* \* \* \*

\* No. 17-1513V  
\*  
\* Special Master Sanders  
\*  
\*  
\*  
\* Stipulation; Dismissal; Influenza (“Flu”)  
\* Vaccine; Tetanus, Diphtheria, and  
\* Pertussis (“Tdap”) Vaccine; SIRVA  
\*

### ORDER CONCLUDING PROCEEDINGS<sup>1</sup>

On October 13, 2017, Rafael D. Leal (“Petitioner”) filed a petition for compensation pursuant to the National Vaccine Injury Compensation Program.<sup>2</sup> 42 U.S.C. §§ 300aa-10 to -34 (2012). Petitioner received a flu vaccination in his left arm and a Tdap vaccination in his right arm on February 29, 2016. Pet’r’s Ex. 4 at 4, ECF No. 22. Petitioner alleged that he developed a shoulder injury related to vaccine administration (“SIRVA”) in his left arm caused by the flu vaccine and in his right arm caused by the Tdap vaccine. *See* Pet. at 1, ECF No. 1. Petitioner further alleged that he experienced the residual effects of his injury for more than six months. *Id.*

On November 1, 2019, the parties filed a joint stipulation in which they state that this action should be dismissed. *Stip.* at 2. Prior to filing the stipulation, Petitioner notified his counsel that he wished to withdraw from the Program and that he does not wish to pursue a separate legal action. *Id.* The parties then agreed to dismiss this action pursuant to Vaccine Rule 21(a). *Id.*

Accordingly, pursuant to Vaccine Rule 21(a) the above-captioned case is hereby dismissed

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<sup>1</sup> This decision shall be posted on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2012)). **This means the Decision will be available to anyone with access to the Internet.** As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b).

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub L. No. 99-660, 100 Stat. 3755.

without prejudice. The Clerk of Court is hereby instructed that a judgment shall not enter in the instant case pursuant to Vaccine Rule 21(a).

**IT IS SO ORDERED.**

s/Herbrina D. Sanders  
Herbrina D. Sanders  
Special Master

IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS

RAFAEL D. LEAL,	)	
	)	
	)	
Petitioner,	)	
	)	
	)	No. 1:17-vv- 01513-UNJ
	)	Special Master Herbrina Sanders
v.	)	
	)	
SECRETARY OF HEALTH	)	
AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
_____	)	

**JOINT STIPULATION OF DISMISSAL**

It is hereby stipulated by and between the parties, the following matters:

1. On October 13, 2017, Petitioner filed a Petition for Vaccine Compensation.
2. Petitioner notified his counsel that he wished to withdraw from the Program and confirmed that he does not wish to pursue a separate legal action.
3. The parties hereby stipulate pursuant to Vaccine Rule 21(a) that this action shall be dismissed.

Respectfully submitted, this 1<sup>st</sup> day of November, 2019.

/s/Nancy R. Meyers  
Nancy R. Meyers  
Attorney for Petitioner  
Ward Black Law  
208 West Wendover Avenue  
Greensboro, NC 27401  
Telephone: 336-333-2244  
[nmeyers@wardblacklaw.com](mailto:nmeyers@wardblacklaw.com)

/s/ Christine Mary Becer  
Christine Mary Becer  
Trial Attorney  
Torts Branch, Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, D.C. 20044-0146  
Telephone: 202-616-3665  
[christine.m.becer@usdoj.gov](mailto:christine.m.becer@usdoj.gov)